

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

DENISE and KENNETH COOK,

*Plaintiffs,*

v.

BENEFICIAL OREGON, INC., and  
SHAPIO & SUTHERLAND, LLC,

*Defendants.*

Case No. **10-cv-3121-PA**

SUPPLEMENTAL AFFIDAVIT  
OF RICHARD MAGATELLI

STATE OF OREGON }  
County of Josephine } ss.

I, Richard Magatelli, being first duly sworn, depose and say:

1. For the last two years I have regularly conducted non-judicial trustee's sales and other public proclamations in Josephine County, Oregon for Nationwide Process Service, Inc. ("Nationwide"), 1201 SW 12<sup>th</sup> Avenue, Suite 420, Portland, Oregon 97205.

2. The public proclamations I complete for Nationwide are supplemental to my full time work as a licensed real estate agent at Oregon Properties Real Estate, Inc. My office is located at 432 NW 6<sup>th</sup> Street, Grants Pass, Oregon 97526. From my office, I can see the Josephine County Courthouse, located across the street at 500 NW 6<sup>th</sup> Street in Grants Pass.

3. It has been my standard practice for the last two years on mornings of a public proclamation of a non-judicial sale or postponement to obtain final instructions from Nationwide by telephone minutes before the scheduled sale or postponement. Virtually all of the sales and/or postponements that I cry are scheduled for 11:00 a.m. at the front entrance of the Josephine County Courthouse. I generally make my telephone call to Nationwide for final instructions from my mobile telephone while standing at the front entrance to the Josephine County Courthouse. Once I receive

1 final instructions to conduct the sale with a provided opening credit bid or to publically announce a  
2 postponement of the sale to another date, I look for any potential interested parties in the vicinity  
3 outside the front entrance door all the way to the street. If anyone is present, I ask if they are present  
4 for a non-judicial foreclosure sale and advise what I am about to proclaim. I then stepped inside the  
5 front entrance to the Josephine County Courthouse and inquire of anyone present in the same manner.  
6 At 11:00 a.m., I rarely see people outside the courthouse, except for occasional cigarette smokers who  
7 choose to smoke on the steps. Four door size windows exist at the front entrance to the Josephine  
8 County Courthouse. From inside the front entrance doors, I am able to clearly see all the way to the  
9 street without obstruction while, at the same time, keep an eye out for anyone inside the courthouse  
10 who might be looking for me.

11 4. On December 17, 2010 at 10:57 a.m., I was on my mobile telephone at the main  
12 entrance to the Josephine County Courthouse. I spoke to Vena Sen-Crowe at Nationwide, who  
13 provided me with final instructions on two unrelated foreclosure sales. She directed me to postpone the  
14 "Cook" sale, "ASAP #3675820" to January 5, 2011 at 11:00 a.m. I am provided with the last name of  
15 the grantor and the "ASAP#" to identify the files. Both name and file number must match, which they  
16 did. Vena then provided final instructions in the unrelated second foreclosure sale to postpone it to  
17 January 18, 2011 at 11:00 a.m. At 10:58 a.m., I was off the phone and immediately applied the  
18 postponement dates in the appropriate Postponement of Trustee's Sale scripts. I then carefully viewed  
19 the entire area outside the front entrance to the Josephine County Courthouse and not a single person  
20 was present. I then went inside and proceeded to seek out any possible interested parties. No one was  
21 immediately present inside the front entrance and vicinity. While I waited for the 11:00 hour, I took  
22 another careful look outside the courthouse. Not one person was present between the courthouse and  
23 street. At 11:00 a.m., I proceeded to publically announce the postponement of the Kenneth & Denise

1 Cook foreclosure by reading the related Postponement of Trustee's Sale, attached hereto and  
 2 incorporated herein as Exhibit "A." When I was finished publically announcing the postponement of  
 3 the Cook sale to January 5, 2011 at 11:00 a.m., I proceeded to announce the unrelated postponement of  
 4 another trustee's sale by publicly and audibly reading that script aloud in its entirety. Once I was  
 5 finished reading aloud both postponement scripts in their entirety, I again reviewed the area for  
 6 witnesses that I could document as being present for the sale. No one, not the grantor or anyone else,  
 7 was present inside or outside the main entrance to the Josephine County Courthouse. I then walked  
 8 back across the street to my office.

9 5. I applied the same level of careful diligence in seeking out interested parties in  
 10 connection with the public proclamations at the Josephine County Courthouse when I publicly and  
 11 audibly proclaimed the Cook postponement on December 2, 2010 at 11:00 a.m. to December 17, 2010  
 12 at 11:00 a.m. and again when I conducted the sale of the property on January 5, 2011 at 11:00 a.m.

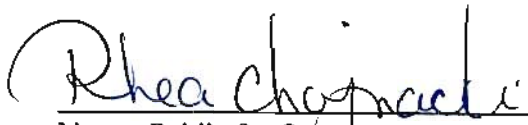
13 6. I do not have a record of the exact time that I completed reading the two postponements  
 14 in their entirety on December 17, 2010 at 11:00 a.m.. I assert here that was present at the front entrance  
 15 to the Josephine County Courthouse the entire time that it took to read aloud the entire postponement  
 16 scripts, together with legal descriptions. I estimate that I departed the front entrance to the courthouse  
 17 at approximately 11:10 a.m. or very shortly thereafter.

18 I declare under penalty of perjury that the above statements are true and correct

19  
 20   
 Richard Magatelli (4740.249916)

21 SUBSCRIBED AND SWORN to before me this 31 day of March 2011, by Richard  
 22 Magatelli.



  
 Notary Public for Oregon